

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

NAJIBA AMIR SHAMS,

Plaintiff,

v.

KIOLO KIJAKAZI, *Acting Commissioner of
the Social Security Administration,*

Defendant.

Civil Action No. 1:20-cv-1604 (RDA/IDD)

REPORT AND RECOMMENDATION

This Matter comes before the Court on Defendant Kiolo Kijakazi's ("Defendant") Consent Motion to Remand ("Consent Motion"). Dkt. No. 20. For the reasons articulated below, the undersigned U.S. Magistrate Judge recommends that the Court GRANT Defendant's Consent Motion and remand this matter back to the Social Security Administration, DENY AS MOOT Plaintiff Najiba Shams' ("Plaintiff") Motion for Summary Judgment, DISMISS this matter, and direct the Clerk of the Court to enter final judgment under Federal Rule of Civil Procedure 58.

I. RELEVANT BACKGROUND

Plaintiff filed a complaint in this Court on December 31, 2020 pursuant to 42 U.S.C. § 405(g) seeking review of the Social Security Administration's final decision denying her application for Social Security Disability Insurance Benefits ("DIB"). Dkt. No. 1. Defendant filed an answer and the certified administrative record on May 28, 2021. Dkt. Nos. 13-14. On July 20, 2021, upon the parties' joint motion, the Court set a briefing schedule for the parties' respective motions for summary judgment. Dkt. No. 16.

Accordingly, Plaintiff filed her Motion for Summary Judgment and supporting memorandum in accordance with this schedule on August 20, 2021. Dkt. Nos. 17-18. Defendant filed the instant consent motion on September 10, 2021. Dkt. No. 20. The Consent Motion explains that “upon further review by counsel for the Commissioner, the Commissioner has determined that additional evaluation of Plaintiff’s claim is warranted.” Dkt. No. 20 at 1. Additionally, Defendant provided that: “On remand, the Commissioner, through the Appeals Council, will refer Plaintiff’s case to an administrative law judge for further administrative proceedings, including evaluation of Plaintiff’s mental impairments...and further consideration of Plaintiff’s mental residual functional capacity.” *Id.* at 2.

The Honorable District Judge Rossie D. Alston referred this matter to the undersigned on September 15, 2021. Accordingly, the undersigned issues this report and recommendation.

II. RECOMMENDATION

Upon review of the filings in this case and the relevant Social Security regulations, the undersigned finds that this case should be remanded back to the Social Security Administration. “The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g).

Here, the parties agree that remand is appropriate. The undersigned U.S. Magistrate Judge therefore recommends that the Court enter an order (1) GRANTING Defendant's Consent Motion [Dkt. No. 20]; (2) DENYING AS MOOT Plaintiff’s Motion for Summary

Judgment [Dkt. No. 17]; (3) DISMISSING this matter; and (4) directing the Clerk of the Court to enter final judgment under Federal Rule of Civil Procedure 58.

III. NOTICE

By mailing copies of this Report and Recommendation, the parties are notified that objections to this Report and Recommendation, pursuant to 28 U.S.C. § 636 and Rule 72(b) of the Federal Rules of Civil Procedure, must be filed within fourteen (14) days of service on you of this Report and Recommendation. A failure to file timely objections to this Report and Recommendation waives appellate review of the substance of the Report and Recommendation and waives appellate review of a judgment based on this Report and Recommendation.

The Clerk is directed to send a copy of this Report and Recommendation to all counsel of record.

/s/ Ivan D. Davis
Ivan D. Davis
United States Magistrate Judge

September 15, 2021
Alexandria, Virginia